

Application No.: 09/921,630
Amendment Dated: January 6, 2004
Reply to Office Action of: November 17, 2003

MAT-5310US1

Remarks/Arguments:

The Official Action notes a priority problem resulting in a defective declaration and an objection to the disclosure. Upon resolution of the prior art rejection, Applicants' representative will file a Petition for Unintentional Abandonment in the parent application No. 08/939,299 in order to establish co-pendency with that application.

Claims 4-7 have been rejected under 35 U.S.C. § 102(b) as being anticipated by EP 0 644 604. It is respectfully submitted, however, that these claims are now patentable over the art of record for the reasons set forth below.

Applicants' invention, is recited by claim 4, includes features which are neither disclosed nor suggested by the art of record, namely:

... a first battery module on its side;

a second battery module stacked on its side on the first battery module ...

EP 0 644 604 only shows battery modules next to each other. The reference does not show battery modules on its sides. Furthermore, the reference does not show one battery module on another battery module where the two battery modules are on their sides. Accordingly, claim 4 is patentable over the art of record.

Claims 5-7 include all the features of claim 4 from which they depend. Thus, claims 5-7 are also patentable over the art of record for the reasons set forth above.

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In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,


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LEA/fp

Attachment: Petition for Unintentional Abandonment

Dated: January 6, 2004

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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

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January 6, 2004

